

**ASSEMBLY BILL**

**No. 2754**

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**Introduced by Committee on Revenue and Taxation (Bocanegra  
(Chair), Gordon, Mullin, Pan, V. Manuel Pérez, and Ting)**

March 24, 2014

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An act to amend Section 17054 of, and to add Sections 18621.10 and 19171 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2754, as introduced, Committee on Revenue and Taxation. Franchise Tax Board: administration: dependent credit: electronic filing.

The Personal Income Tax Law allows a credit for each dependent of a taxpayer and does not require a tax identification number of the dependent to be included on the return filed with the Franchise Board.

This bill would require, for taxable years beginning on or after January 1, 2015, the tax identification number of a dependent to be included on the taxpayer's return and would allow the taxpayer who did not provide the taxpayer identification number on the return to thereafter claim a credit or refund of that amount, as provided.

Existing law requires every taxpayer subject to the Personal Income Tax Law or the Corporation Tax Law to timely file a return with the Franchise Tax Board, unless exempt, on a form prescribed by the Franchise Tax Board.

This bill, for taxable years beginning on or after January 1, 2014, would require an acceptable return, as defined, of a business entity, as defined, that was prepared using a tax preparation software to be filed using electronic technology in a form and manner prescribed by the Franchise Tax Board. This bill would require a business entity that fails to comply with that filing requirement for returns filed for taxable years

beginning on or after January 1, 2016, to pay a penalty of \$500 for each failure unless the failure is due to reasonable cause, and not willful neglect. This bill would require the Franchise Tax Board to conduct programs to educate business entities on these requirements and liberally interpret and grant waivers of the penalty, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17054 of the Revenue and Taxation Code  
2     is amended to read:

3     17054. In the case of individuals, the following credits for  
4     personal exemption may be deducted from the tax imposed under  
5     Section 17041 or 17048, less any increases imposed under  
6     paragraph (1) of subdivision (d) or paragraph (1) of subdivision  
7     (e), or both, of Section 17560.

8     (a) In the case of a single individual, a head of household, or a  
9     married individual making a separate return, a credit of fifty-two  
10    dollars (\$52).

11    (b) In the case of a surviving spouse (as defined in Section  
12    17046), or a husband and wife making a joint return, a credit of  
13    one hundred four dollars (\$104). If one spouse was a resident for  
14    the entire taxable year and the other spouse was a nonresident for  
15    all or any portion of the taxable year, the personal exemption shall  
16    be divided equally.

17    (c) In addition to any other credit provided in this section, in  
18    the case of an individual who is 65 years of age or over by the end  
19    of the taxable year, a credit of fifty-two dollars (\$52).

20    (d) (1) A credit of two hundred twenty-seven dollars (\$227)  
21    for each dependent (as defined in Section 17056) for whom an  
22    exemption is allowable under Section 151(c) of the Internal  
23    Revenue Code, relating to additional exemption for dependents.  
24    The credit allowed under this subdivision for taxable years  
25    beginning on or after January 1, 1999, shall not be adjusted  
26    pursuant to subdivision (i) for any taxable year beginning before  
27    January 1, 2000.

28    ~~(2) The credit allowed under paragraph (1) may not be denied~~  
29    ~~on the basis that the identification number of the dependent, as~~  
30    ~~defined in Section 17056, for whom an exemption is allowable~~

1 ~~under Section 151(c) of the Internal Revenue Code, relating to~~  
2 ~~additional exemption for dependents, is not included on the return~~  
3 ~~claiming the credit.~~

4 (2) (A) *For taxable years beginning on or after January 1,*  
5 *2015, a credit shall not be allowed under paragraph (1) with*  
6 *respect to any individual unless the identification number, as*  
7 *defined in Section 6109 of the Internal Revenue Code, of that*  
8 *individual is included on the return claiming the credit.*

9 (B) *A disallowance of a credit due to the omission of a correct*  
10 *identification number required under this paragraph, may be*  
11 *assessed by the Franchise Tax Board in the same manner as is*  
12 *provided by Section 19051 in the case of a mathematical error*  
13 *appearing on the return. A claimant shall have the right to claim*  
14 *a credit or refund of adjusted amounts within the period provided*  
15 *in Section 19306, 19307, 19308, or 19311, whichever period*  
16 *expires later.*

17 (3) (A) *For taxable years beginning on or after January 1, 2009,*  
18 *the credit allowed under paragraph (1) for each dependent shall*  
19 *be equal to the credit allowed under subdivision (a). This*  
20 *subparagraph shall cease to be operative for taxable years beginning*  
21 *on or after January 1, 2011, unless the Director of Finance makes*  
22 *the notification pursuant to Section 99040 of the Government*  
23 *Code, in which case this subparagraph shall cease to be operative*  
24 *for taxable years beginning on or after January 1, 2013.*

25 (B) *For taxable years that subparagraph (A) ceases to be*  
26 *operative, the credit allowed under paragraph (1) for each*  
27 *dependent shall be equal to the amount that would be allowed if*  
28 *subparagraph (A) had never been operative.*

29 (e) *A credit for personal exemption of fifty-two dollars (\$52)*  
30 *for the taxpayer if he or she is blind at the end of his or her taxable*  
31 *year.*

32 (f) *A credit for personal exemption of fifty-two dollars (\$52)*  
33 *for the spouse of the taxpayer if a separate return is made by the*  
34 *taxpayer, and if the spouse is blind and, for the calendar year in*  
35 *which the taxable year of the taxpayer begins, has no gross income*  
36 *and is not the dependent of another taxpayer.*

37 (g) *For the purposes of this section, an individual is blind only*  
38 *if either (1) his or her central visual acuity does not exceed 20/200*  
39 *in the better eye with correcting lenses, or (2) his or her visual*  
40 *acuity is greater than 20/200 but is accompanied by a limitation*

1 in the fields of vision such that the widest diameter of the visual  
2 field subtends an angle no greater than 20 degrees.

3 (h) In the case of an individual with respect to whom a credit  
4 under this section is allowable to another taxpayer for a taxable  
5 year beginning in the calendar year in which the individual's  
6 taxable year begins, the credit amount applicable to that individual  
7 for that individual's taxable year is zero.

8 (i) For each taxable year beginning on or after January 1, 1989,  
9 the Franchise Tax Board shall compute the credits prescribed in  
10 this section. That computation shall be made as follows:

11 (1) The California Department of Industrial Relations shall  
12 transmit annually to the Franchise Tax Board the percentage change  
13 in the California Consumer Price Index for all items from June of  
14 the prior calendar year to June of the current calendar year, no  
15 later than August 1 of the current calendar year.

16 (2) The Franchise Tax Board shall add 100 percent to the  
17 percentage change figure which is furnished to them pursuant to  
18 paragraph (1), and divide the result by 100.

19 (3) The Franchise Tax Board shall multiply the immediately  
20 preceding taxable year credits by the inflation adjustment factor  
21 determined in paragraph (2), and round off the resulting products  
22 to the nearest one dollar (\$1).

23 (4) In computing the credits pursuant to this subdivision, the  
24 credit provided in subdivision (b) shall be twice the credit provided  
25 in subdivision (a).

26 SEC. 2. Section 18621.10 is added to the Revenue and Taxation  
27 Code, to read:

28 18621.10. (a) For taxable years beginning on or after January  
29 1, 2014, if an acceptable return of a business entity was prepared  
30 using a tax preparation software, that return shall be filed using  
31 electronic technology in a form and manner prescribed by the  
32 Franchise Tax Board.

33 (b) For purposes of this section:

34 (1) "Acceptable return" means any original or amended return  
35 that is required to be filed pursuant to Article 2 (commencing with  
36 Section 18601), Section 18633, Section 18633.5, or Article 3  
37 (commencing with Section 23771) of Chapter 4 of Part 11, other  
38 than the return for unrelated business taxable income required by  
39 Section 23771.

1 (2) “Business entity” means a corporation, including an “S”  
2 corporation, an organization exempt from tax pursuant to Chapter  
3 4 (commencing with Section 23701) of Part 11, a partnership, or  
4 a limited liability company.

5 (3) “Tax preparation software” means any computer software  
6 program used to prepare an acceptable return or for use in tax  
7 compliance.

8 (4) “Electronic technology” includes, but is not limited to, the  
9 Internet, cloud computing, or an electronic information delivery  
10 system.

11 (5) “Technology constraints” means an inability of the tax  
12 preparation software used by a taxpayer to electronically file the  
13 acceptable return as required by this section as a result of the  
14 complex nature of the return or inadequacy of the software.

15 (c) Any business entity required to file a return electronically  
16 under this section may annually request a waiver of the  
17 requirements of this section from the Franchise Tax Board with  
18 respect to an acceptable return filed for a taxable year. The  
19 Franchise Tax Board may grant a waiver if it determines the  
20 business entity is unable to comply with the requirements of this  
21 section due to, but not limited to, technology constraints, where  
22 compliance would result in undue financial burden, or due to  
23 circumstances that constitute reasonable cause, and not willful  
24 neglect as applicable with respect to the penalty imposed under  
25 Section 19171.

26 (d) This section applies to an acceptable return required to be  
27 filed on or after January 1, 2015.

28 SEC. 3. Section 19171 is added to the Revenue and Taxation  
29 Code, to read:

30 19171. (a) A business entity required to electronically file a  
31 return pursuant to Section 18621.10 that files a return in a manner  
32 that fails to comply with Section 18621.10, shall be subject to a  
33 penalty in the amount of five hundred dollars (\$500) for each  
34 failure unless the failure is due to reasonable cause, and not willful  
35 neglect.

36 (b) This section shall apply to returns filed for taxable years  
37 beginning on or after January 1, 2016.

38 SEC. 4. The Franchise Tax Board shall conduct a robust  
39 education program advising business entities affected by Section  
40 18621.10 of the Revenue and Taxation Code of the requirements

1 of that section and liberally interpret and grant waivers of the  
2 penalty imposed under Section 19171 of the Revenue and Taxation  
3 Code to minimize any unnecessary adverse impacts to business  
4 entities that experience difficulty complying with these new  
5 requirements.

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